

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Architectural Busstrut Corporation d/b/a
busSTRUT,

Case No. 19-CV-00968 (DSD/ECW)

Plaintiff,

v.

**DECLARATION OF
GREGORY GELLERT**

Target Corporation,

Defendant.

I, Gregory Gellert, declare as follows:

1. I am the Vice President and General Counsel of Architectural Busstrut Corporation d/b/a busSTRUT. I am over 18 years of age and have personal knowledge as to all factual matters discussed herein. I make this declaration in support of Plaintiff and Counter-Defendant busSTRUT's Motion for Summary Judgment.

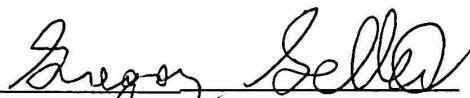
2. Between November 2016 and April 2018, busSTRUT supplied its heavy-duty track-lighting ("Track") system for hundreds of Defendant and Counter-Plaintiff Target Corporation's store remodels. (*See Decl. of Emmett E. Robinson, Ex. 16.*) Throughout this entire time period, and despite busSTRUT's repeated pleading, Target *never once* gave the 12 weeks' notice required in order to receive the discounted \$96.29 per-unit pricing contemplated by the "Amendment Number 1 to Program Agreement for Goods and Services" executed by Target and busSTRUT in November 2016.

3. Between November 2016 and March 22, 2018, Target and busSTRUT regularly engaged in a course-of-performance whereby, among other things, busSTRUT

would issue store-specific quotes to Target that priced each component of busSTRUT's track system for that store as well as the overall cost of the busSTRUT Track system for that store. Target would respond with purchase orders adopting the busSTRUT quotes. After delivery of the components and quantities listed in the quotes and purchase orders, Target regularly remitted funds to busSTRUT in the amount specified in the corresponding, store-specific quotes and purchase orders (plus applicable tax and freight).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated this 22nd day of April, 2021.


Gregory Gellert